

8 Am. Jur. 2d Automobiles § 407

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Automobiles and Highway Traffic

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VI. Civil Liability Arising from Operation of Vehicle

A. In General

1. Overview

§ 407. Liability arising from operation of vehicle, generally; unavoidable or inevitable accidents

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Automobiles](#)  159, 201(10)

A.L.R. Library

[Instructions on “unavoidable accident,” “mere accident,” or the like, in motor vehicle cases—modern cases, 21 A.L.R.5th 82](#)
[Liability for negligent operation of dune buggy, 2 A.L.R.4th 795](#)

Forms

Forms relating to unavoidable or unforeseen accidents, generally, see Am. Jur. Pleading and Practice Forms, Automobiles and Highway Traffic [[Westlaw®\(r\) Search Query](#)]

The doctrine of unavoidable or inevitable accident relieves a person of liability, so long as the person invoking the doctrine shows that he or she was in no way to blame for the happening.¹ For example, when a driver has employed all reasonable precaution to avoid an accident and the sudden act of a child creates an emergency rendering it impossible for the motorist

to avoid striking the child, the accident is considered unavoidable and the motorist is not liable.² Moreover, where the driver of an automobile suffers an unforeseeable illness which causes him or her to suddenly lose consciousness and control of the automobile, the driver's loss of control is not negligent, and the driver is not liable for any damages caused by the out-of-control automobile.³ The mere fact that an accident occurs which results in personal injury, death, or property damages does not warrant a recovery against the owner or operator of the vehicle unless it is shown that the injury or damage was caused by the negligence of the operator.⁴ If a motorist who is involved in an automobile accident has exercised ordinary care, or the highest degree of care required by law, but nevertheless causes injury, the accident is said to be inevitable, and no liability attaches.⁵

Definition:

A collision is unavoidable where the motorist is faced with an emergency situation and was not driving in a reckless manner or otherwise acting negligently, and reacts reasonably to the situation.⁶

An unavoidable or inevitable accident is such an occurrence as, under the circumstances and conditions, could not have been foreseen or anticipated in the exercise of ordinary care;⁷ or an accident that happens from natural causes, without negligence or fault on either side;⁸ or an event not proximately caused by the negligence of any party to it.⁹

A sudden illness or death that renders a driver incapable of controlling his or her car, provided that the event is unforeseeable and beyond the power of human intervention to prevent, is an act of God.¹⁰ To establish an act of God defense based on illness producing a loss of consciousness, the driver must show that the loss of consciousness produced the accident without any contributing negligence on the part of the driver.¹¹

The mere fact that as to a motorist a collision might have been inevitable or unavoidable at the time of its occurrence will not entitle that motorist to the protection of the doctrine of unavoidable accident if the situation thus brought about was the result of the motorist's own negligence.¹²

Practice Tip:

An instruction on unavoidable accident is most often used to inquire about the causal effect of some physical condition or circumstance such as fog, snow, sleet, wet or slick pavement, or obstruction of view, or to resolve a case involving a very young child who is legally incapable of negligence; such an instruction should not be submitted in other circumstances because of the risk that the jury will be misled or confused by the perception that the instruction represents a separate issue distinct from the general principles of negligence.¹³

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Footnotes

- 1 Davis v. Smith, 796 So. 2d 765 (La. Ct. App. 2d Cir. 2001), writ denied, 807 So. 2d 250 (La. 2002).
- 2 Thomas v. Duncan, 954 So. 2d 218 (La. Ct. App. 2d Cir. 2007).
- 3 Halligan v. Broun, 285 Ga. App. 226, 645 S.E.2d 581 (2007).
- 4 Smith v. Johnson, 282 So. 2d 178 (Fla. 2d DCA 1973).
- 5 Coleman v. Stephens, 142 So. 3d 363 (La. Ct. App. 2d Cir. 2014), writ denied, 149 So. 3d 802 (La. 2014).
- 6 Rocourt v. Kelly, 239 A.D.2d 483, 657 N.Y.S.2d 759 (2d Dep't 1997).
- 7 Gregory v. Lynch, 271 N.C. 198, 155 S.E.2d 488 (1967).
- 8 Kasper Instruments, Inc. v. Maurice, 394 So. 2d 1125 (Fla. 4th DCA 1981).
- 9 Friday v. Spears, 975 S.W.2d 699 (Tex. App. Texarkana 1998).
- 10 Evans v. Brown, 399 Ill. App. 3d 238, 339 Ill. Dec. 144, 925 N.E.2d 1265 (4th Dist. 2010).
- 11 Eatmon v. Weeks, 323 Ga. App. 578, 746 S.E.2d 886 (2013).
- 12 Tolbert v. Fireman's Fund Ins. Co., 719 So. 2d 738 (La. Ct. App. 3d Cir. 1998).
- 13 Friday v. Spears, 975 S.W.2d 699 (Tex. App. Texarkana 1998).

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